

NEBRASKA ADMINISTRATIVE CODE

Title 272 - Nebraska State Patrol

CHAPTER 20 - PROCEDURES FOR THE COLLECTION, TRANSPORTATION, STORAGE, AND ANALYSIS OF BLOOD SAMPLES FOR THE PURPOSE OF THE DNA DATABASE

001 Procedure for the collection of body fluids. Human blood is the only body fluid specimen accepted by the Nebraska State Patrol's Crime Laboratory for inclusion in the DNA Database.

001.01 The collection of blood from any offender pursuant to the DNA Detection of Sexual and Violent Offenders Act must be accomplished by:

001.01A a physician licensed to practice by the state,

001.01B a registered nurse licensed to practice by the state, or

001.01C a trained phlebotomist who either:

001.01C(1) is working under orders of, or protocols and procedures approved by, a physician, registered nurse, or other independent health care practitioner whose scope of practice permits the practitioner to obtain blood specimens and who is licensed to practice by the state or

001.01C(2) is employed by a licensed institution or facility.

001.02 To ensure the integrity of the blood samples collected, the following collection procedures shall be followed.

001.02A The collection of blood shall be witnessed by a third person whenever possible.

001.02B Only one offender shall be permitted into the collection area at any one time.

001.02C Check the expiration date on the outside of the blood collection kit. If the kit has expired, return it to the Nebraska State Patrol's Crime Laboratory. Remove and inspect the components from the blood collection kit. The kit should contain an instruction sheet, alcohol prep pad, zip-lock bag, shipping seal, DNA Database collection card, lavender vacutainer (EDTA) blood tube, needle, blood tube and needle holder, gauze pad, bandage, liquid absorbent sheet, and bubble pack bag. If any of the components is missing, return the blood collection kit to the Nebraska State Patrol's Crime Laboratory.

001.02D Cleanse the blood collection area with the alcohol prep pad. Place the label on the blood tube. Following accepted medical procedures and using the needle and blood tube provided, withdraw blood from the offender allowing the blood tube to fill.

001.02E Immediately after the blood is collected, assure proper mixing of the anticoagulant by slowly and completely inverting the blood tube at least five times. Do not shake vigorously.

001.02F Print the name and (if available) the Social Security Number of the offender from whom the blood was drawn on the blood tube label.

001.02G Type or clearly print clearly all information requested on the DNA Database collection card. Portions of the card must be completed by the medical professional collecting the sample, and others by the law enforcement professional responsible for the offender.

001.02H Place a re-tab on the back of the DNA Database collection card in the space provided. Using professionally accepted procedures, place a single thumb print or fingerprint on the re-tab. Whenever possible, identify which thumb or finger was printed (i.e. right thumb).

001.02I Compare the identifying information on the blood tube label, and the DNA Database collection card to ensure that all of the information is accurate and that it correctly identifies the blood sample and the offender from whom it was collected.

001.02J Insert the blood collection tube into the bubble pack blood tube protector and seal using the attached adhesive strip.

001.02K Insert the bubble pack containing the blood collection tube into the zip-lock bag, then gently squeeze out the excess air and close the bag. The liquid absorbing pad should remain in the zip-lock bag with the blood tube.

001.02L Place the protected blood sample and the completed DNA Database collection card into the blood collection kit box and close.

001.02M Date and sign the blood collection box shipping seal, then remove and affix the seal to the box where indicated.

001.02N To ensure the viability of the blood sample, it must be delivered to the Nebraska State Patrol's Crime Laboratory within five working days of its collection. The blood samples should be refrigerated until they are transported to the laboratory. Because the laboratory is not staffed on week-ends or on state holidays, careful planning relative to the dates blood samples are collected in

order that they can be delivered to the laboratory within five working days of collection will be necessary. If the blood samples are not hand delivered to the laboratory, it is recommended that an overnight mail service be used.

002 DNA Database Sample Handling Procedures.

002.01 A laboratory employee designated by the DNA Supervisor, shall be responsible for receiving, logging, handling, and tracking all blood samples and related records intended for the DNA Database until the blood samples have been verified as having been obtained from the person named on the DNA Database collection card by the Patrol's Criminal Identification Division (CID).

002.01A If it is not possible for the blood samples to be logged in on the day they are received by the laboratory, a laboratory employee designated by the DNA Supervisor shall place their initials and date on the blood sample collection kit. The blood collection kit shall then be secured in a refrigerator at 2 to 8 degrees centigrade. The blood collection kit(s) shall be logged in no later than the following work day.

002.02 Log in procedure.

002.02A Check the evidence seal and expiration date on the outside of the blood collection kit. If the kit is not properly sealed or if the blood collection kit has expired, the sample shall be rejected and destroyed. A form signed by the laboratory director shall be faxed or mailed to the submitting agency stating why the sample was rejected and requesting another sample. If the DNA lab staff believe the re-sampling can be expedited by contacting the submitting agency by telephone, contact can be made in that manner. However, oral notification shall be followed by written correspondence from the laboratory director. Document the request for Re-sample on the appropriate forms.

002.02B Put on protective gloves and protect the work surface.

002.02C Open the blood collection kit and inspect its contents. If the blood collection tube is not the type supplied in the blood collection kit, the sample shall be rejected and destroyed. A form signed by the laboratory director stating why the sample was rejected and requesting another sample shall be faxed or mailed to the submitting agency. Document the request for Re-sample on the appropriate forms.

002.02D If the blood volume is adequate and blood collection tube type are correct, examine the blood collection tube and the DNA Database collection card to ensure they match. If they do not the sample shall be rejected and destroyed. A form signed by the laboratory director stating why the sample was rejected and requesting another sample shall be faxed or mailed to the submitting agency. Document the request for Re-sample on the appropriate forms.

002.02D(1) If the DNA Database collection card is incomplete, a laboratory employee designated by the DNA Supervisor may call the submitting agency to obtain the missing information and document changes on the card. However, if the offender's name is missing, the sample shall be rejected and destroyed. A form signed by the laboratory director stating why the sample was rejected and requesting another sample shall be faxed or mailed to the submitting agency. Document the request for Re-sample on the appropriate forms.

002.02E If a needle or other blood contaminated items are present they shall be disposed of in an appropriate biohazard container. Other blood collection kit materials may be disposed of with the regular trash.

002.02F Record the DNA Database collection card information in the intake database. Search the intake database to identify possible duplicate submission of samples. If the name search yields a duplicate and it is not possible for the DNA staff to determine whether or not the samples are from the same person, both DNA Database collection cards will be forwarded to the CID and will be examined by a fingerprint examiner. The purpose of this examination is to verify the two samples came from the same individual. If they did the second or subsequent samples will be destroyed. A record will be kept of the duplicate samples received and destroyed.

002.02G Store the DNA blood collection kit in a refrigerator at 2 to 8 degrees centigrade.

002.02H Submit the DNA Database collection card, either personally or through inter-office mail, to the CID to positively identify the fingerprint or thumb print as that of the person named on the DNA Database collection card and from whom the blood sample was collected.

002.02I Record the date the DNA Database collection card was forwarded to the CID in the intake database and other appropriate forms.

002.02J After the CID has verified the identity of the offender from whom the blood sample was obtained, record the date the DNA Database collection card was received from the CID in the intake database and other appropriate forms. Name changes made by the CID personnel shall be noted in the intake database.

002.02K If it is determined by the CID that the thumb print or fingerprint on the DNA Database collection card is not that of the person named on the DNA Database collection card, the sample shall be rejected and destroyed. A form signed by the laboratory director shall be faxed or mailed to the submitting agency stating why the sample was rejected and requesting another sample. Document the request for Re-sample on the appropriate forms.

002.02L The re-submission of rejected blood samples shall be documented. However, it is not the responsibility of the Nebraska State Patrol to ensure that re-sampling is accomplished. When re-samples are received, the appropriate information shall be entered in the intake database and on the appropriate forms.

002.02M A report detailing the number of blood samples received, the correctional facilities that submitted blood samples, and the number of blood samples rejected shall be prepared monthly by a laboratory employee designated by the DNA Supervisor. The report shall be forwarded to the DNA Supervisor before the fifteenth calendar day of the following month.

003 Availability of Blood Collection Kits. DNA Database blood collection kits will be provided by the Nebraska State Patrol and distributed by the Patrol's Crime Laboratory. Correctional facilities requesting blood collection kits shall contact the Crime Laboratory. A laboratory employee designated by the DNA Supervisor will distribute the blood collection kits to the requesting correctional facility or coordinate the shipping of the DNA Database blood collection kits to the requesting correctional facility.

004 Database Sample Processing

004.01 Put on protective gloves and protect the work surface.

004.02 Open the blood collection kit and remove the blood collection tube.

004.03 Verify the name on tube matches name on the DNA Database collection card.

004.04 Label an FTA card with the assigned DNA Database profile number, the offender's name and social security number (if available).

004.05 In a Biological Safety Cabinet, open the blood collection tube and spot approximately 0.1 milliliter of liquid blood onto each of the four quadrants of the FTA card. Allow the blood to dry at room temperature for 1 hour to overnight.

004.06 Replace the cap onto the blood collection tube and discard in an appropriate liquid biohazard container.

004.07 Prepare the sample for long-term storage.

004.07(1) Place the DNA Database profile number on a foil envelope. Put the FTA card containing the dried blood stain and a desiccant package into the foil envelope and seal. Store sample at room temperature in a locked cabinet.

005 Sample Analysis by the Nebraska State Patrol Crime Laboratory

005.01 The Nebraska State Patrol Crime Laboratory shall analyze the samples for the National DNA Index System (NDIS) 13 core STR loci using the AmpFISTR Profiler Plus and AmpFISTR COfiler PCR Amplification kits or other NDIS approved PCR amplification kits.

005.02 Results of DNA profiles shall be generated in hard copy format and Combined DNA Index System (CODIS) compatible electronic format.

005.03 Data analysis results shall be technically reviewed by a second qualified DNA analyst.

005.03A Any sample that does not meet the technical review guidelines shall be re-analyzed with the appropriate kit.

005.04 Import the electronic data for all samples that meet the technical review guidelines into CODIS.

005.05 Store the hard copy and electronic data results in a locked cabinet indefinitely.

006 Sample Analysis by a Contract Laboratory. If the sample is to be analyzed by a Contract Laboratory

006.01 Place the DNA Database profile number on a coin envelope and a blank business card. Remove one quadrant of the FTA card containing the dried bloodstain, attach it to the labeled business card and place into the correspondingly labeled coin envelope.

006.02 Up to twenty percent of the samples may be re-analyzed for Quality Assurance purposes.

006.02A If the sample is to be sent as a Quality Assurance sample to the Contract Laboratory, place the DNA Database Quality Assurance number on another coin envelope and blank business card. Remove another quadrant, attach it to the labeled business card and place into the correspondingly labeled coin envelope.

006.02B Quality Assurance samples may be analyzed by the Nebraska State Patrol Crime Laboratory.

006.03 Store sample at room temperature in a locked cabinet until analysis.

006.04 Send samples to the contracted laboratory for DNA analysis in appropriate size batches using certified mail with the US Post Office.

006.04A The Contract Laboratory shall analyze the samples for the NDIS 13 core STR loci using the AmpFISTR Profiler Plus and AmpFISTR COFILER PCR Amplification kits or other NDIS approved PCR amplification kits.

006.04B If any of the dried bloodstain remains after the DNA analysis procedure, the Contract Laboratory shall destroy the remaining portion after a period of at least one year from the date of receipt.

006.04C Record the date the samples are sent to the Contract Laboratory for DNA analysis into the intake database.

006.04D Record the date the results are received from the Contract Laboratory into the intake database.

006.05 Results of DNA profiles shall be received in hard copy format and CODIS compatible electronic format.

006.05A Review the hard copy results from the Contract Laboratory according to quality assurance review guidelines.

006.05B Any sample that does not meet the quality assurance review guidelines shall be re-analyzed with the appropriate kit by the Contract Laboratory or the Nebraska State Patrol Crime Laboratory.

006.05C Using the electronic data provided by the Contract Laboratory, import all samples into CODIS that meet the quality assurance review guidelines.

006.06 Store the hard copy and electronic data results in a locked cabinet indefinitely.

007 Quality Assurance Guidelines for Laboratories Which Submit DNA Profiles to the Nebraska State DNA Database.

007.01 All Nebraska convicted offender DNA profiles must be produced in accordance with the DNA Identification Act of 1994, the FBI approved Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories and the NDIS Standards for Acceptance of DNA Data.

007.01A DNA profiles produced by laboratories that are accredited by the American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD/LAB) or certified by National Forensic Science Training Center (NFSTC) are considered to meet the standards set forth in the DNA Identification Act of 1994 and the FBI approved Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories.

007.02 All other DNA profiles (i.e., forensic unknowns) offered to the Nebraska State DNA Index System must be produced in accordance with the DNA Identification Act of 1994, the FBI approved Quality Assurance Standards for DNA Testing Laboratories and the NDIS Standards for Acceptance of DNA Data.

007.02A DNA profiles produced by laboratories that are accredited by the American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD/LAB)

or certified by National Forensic Science Training Center (NFSTC) are considered to meet the standards set forth in DNA Identification Act of 1994 and the FBI approved Quality Assurance Standards for DNA Testing Laboratories.

007.02B Laboratories other than the Nebraska State Patrol Crime Laboratory that are not accredited by ASCLD/LAB or certified by NFSTC shall certify in writing that the DNA profiles were produced in accordance with the DNA Identification Act of 1994, the FBI approved Quality Assurance Standards for DNA Testing Laboratories and the NDIS Standards for Acceptance of DNA or that DNA profiles produced before the effective dates of these documents were produced in a manner largely consistent with these documents.

007.02C The following exceptions to the NDIS Standards for Acceptance of DNA Data are acceptable:

007.0C(1) Accepted PCR Kits shall include any commercially available PCR kit that provides analysis of NDIS Accepted PCR loci.

007.02C(2) Accepted Allelic Ladders shall include allelic ladders from the same Accepted PCR Kits.

007.02C(3) The minimum number of NDIS Accepted PCR loci attempted and the minimum number of PCR loci required for search purposes shall be determined on a case by case basis.

007.02C(4) Other exceptions as determined on a case by case basis may deemed appropriate by the DNA Supervisor.

008 DNA samples and DNA records; confidentiality.

008.01 DNA records contained in the State DNA Database shall be made available

008.01A To law enforcement agencies and forensic DNA laboratories which serve such agencies; and

008.01B Upon written or electronic request and in furtherance of an official investigation of a criminal offense or offender or suspected offender.

008.02 Recipients of DNA records and/or samples shall enter into a written agreement with the Nebraska State Patrol averring to comply with the procedures governing the expungement of DNA records and samples.

008.03 Procedures for the verification of the identity and authority of the person requesting information from the State DNA Database.

008.03A Requests for information from the State DNA Database shall be

submitted to the DNA laboratory on a NSP 750 submittal form, on agency letterhead or through NDIS.

008.03B The identity of the person requesting information shall be verified prior to release of DNA Database information by personal knowledge of the individual, requests made on an NSP 750, requests made through NDIS, requests made on agency letterhead, or personal contact with the agency.

008.04 If a match is found, this information can be provided to the person requesting such information.

008.04A The preliminary match must be confirmed by obtaining and analyzing a suitable reference sample from the offender or suspected offender, which can then be compared to evidentiary samples for the purposes of inclusion or exclusion.

009 Expungement of DNA Records from the Combined DNA Index System.

009.01 Upon receipt of a written request for expungement pursuant to Article 41, Neb. Rev. Stat. § 21-4109 and a certified copy of the final court order reversing and dismissing the conviction, or other documentation from individuals authorized to direct such expungement, the Nebraska State Patrol (NSP) shall purge all DNA records and identifiable information in the State DNA Database pertaining to the person and destroy all DNA samples from the person.

009.02 The DNA record shall be deleted from the Local and State DNA Index.

009.03 A data upload shall be executed, which will trigger the deletion of the record from NDIS.

009.04 The dried bloodstain prepared for DNA analysis and subsequent long-term storage shall be destroyed by the DNA Supervisor or by a designated laboratory employee and witnessed by another laboratory employee.

009.05 The Designated State Official or DNA Supervisor shall prepare a letter on State letterhead to the NDIS Custodian requesting expungement (confirmation that the DNA profile has been properly deleted from NDIS).

009.06 If the deletion has occurred, expungement confirmation from NDIS will be provided to the State (i.e., a confirmatory letter).

009.07 Upon receipt of expungement confirmation from NDIS, a letter shall be prepared by the Nebraska State Patrol certifying the expungement to the person who requested or was granted expungement.

009.08 The Nebraska State Patrol shall provide written notification of expungement to any person to whom the DNA records or samples were made available within 10 calendar

days.

09.09 Upon receipt of notification of expungement from the Nebraska State Patrol:

009.09A Recipients of DNA records and samples shall comply with the expungement provisions within 10 calendar days of receipt of such notice that expungement has been granted.

009.09B Recipients of DNA records and samples shall certify in writing to the Nebraska State Patrol that compliance with the expungement provisions has been effectuated.